

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DURRELL ANTHONY PUCKETT,

Plaintiff,

v.

BARAONA, *et al.*,

Defendants.

Case No. 1:21-cv-01448-KES-BAM (PC)

ORDER EXTENDING APPLICATION OF
OCTOBER 24, 2022 DISCOVERY AND
SCHEDULING ORDER TO DEFENDANT T.
PRICE AND EXTENDING DISCOVERY
AND DISPOSITIVE MOTION DEADLINES
(ECF No. 56)

Discovery Deadline: August 22, 2024

Dispositive Motion Deadline: September 23,
2024

ORDER DIRECTING CLERK OF COURT TO
ISSUE CONSENT/DECLINE FORM

Plaintiff Durrell Anthony Puckett (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s second amended complaint only against: (1) Defendants A. Baraona, R. Burnitzki,¹ R. Leos, H. Hernandez, E. Diaz, and Doe 1² for excessive force in violation of the Eighth Amendment; (2) Defendant R. Leos for sexual assault in violation of the Eighth Amendment; and (3) Defendants A. Ruiz, R. Martinez, E. Ruiz, G. Meier,³ R. Gutierrez, J. Cruz, K. Allison

¹ Erroneously sued as “Burneszki.”

² Findings and recommendations to dismiss Defendant Doe 1, without prejudice, pursuant to Federal Rule of Civil Procedure 4(m) are pending before the assigned District Judge. (ECF No. 84.)

³ Erroneously sued as “Meiers.”

1 (Cronister), and T. Price for failure to protect in violation of the Eighth Amendment.⁴

2 Currently pending before the Court is Plaintiff's motion for summary judgment, filed May
3 26, 2023. (ECF No. 71.) All Defendants except Defendants Price and Doe 1 opposed the motion
4 for summary judgment on June 20, 2023. (ECF No. 72.) Defendant Price will have the
5 opportunity to oppose Plaintiff's motion for summary judgment or join in the June 20, 2023
6 opposition.

7 Further, the Court originally issued a discovery and scheduling order in this action on
8 October 24, 2022. (ECF No. 56.) Although all deadlines in that order have expired, with the
9 recent substitution and appearance of Defendant Price, the Court finds it appropriate to extend
10 application of the October 24, 2022 discovery and scheduling order to Defendant Price. In
11 addition, the Court will reopen discovery as to Defendant Price only, and extend the dispositive
12 motion deadline to permit Defendant Price the opportunity to file a dispositive motion. If
13 Defendant Price opts not to file a dispositive motion in this action, Defendant Price should
14 promptly so inform the Court.

15 Accordingly, it is HEREBY ORDERED that:

- 16 1. Application of the discovery and scheduling order of October 24, 2022, (ECF No. 56), is
17 EXTENDED to Defendant T. Price;
- 18 2. Discovery is reopened as to Defendant Price only;
- 19 3. The completion of all discovery requests to or from Defendant Price, including filing all
20 motions to compel discovery, is extended to **August 22, 2024**;
- 21 4. The deadline for Defendant Price to file all dispositive motions (including a motion for
22 summary judgment for failure to exhaust) is extended to **September 23, 2024**;
- 23 5. Defendant Price shall file an opposition (or a joinder in the June 20, 2023 opposition) to
24 Plaintiff's motion for summary judgment by **August 22, 2024**;
- 25 6. **A request for an extension of a deadline set in this order must be filed on or before**
26 **the expiration of the deadline in question and will only be granted on a showing of**

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⁴ Defendants Barona, Burnitzki, Leos, Hernandez, Diaz, A. Ruiz, Martinez, E. Ruiz, Meier, Gutierrez, Cruz, and Allison answered the second amended complaint on April 4, 2024. (ECF No. 88.)

good cause; and

7. The Clerk of the Court is directed to issue a consent/decline form to all parties.

IT IS SO ORDERED.

Dated: May 24, 2024

/s/ *Barbara A. McAuliffe*
UNITED STATES MAGISTRATE JUDGE